

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08KD-195

Kauai

Sale of Lease at Public Auction for Pasture Purposes and Issuance of Revocable Permit
to William J. Sanchez, Sr., Wailua, Lihue (Puna), Kauai, Tax Map Keys (4) 3-9-5:19
and 20

REQUEST:

Sale of lease at public auction for pasture purposes; and

Issuance of revocable permit to William J. Sanchez, Sr., married, Tenant in Severalty, whose
mailing address is 873-A Kamalu Road, Kapaa, Hawaii, 96746.

LEGAL REFERENCE:

Sections 171-14, -14.5, -16, -17, -55 and other applicable sections of Chapter 171, Hawaii
Revised Statutes, as amended

LOCATION:

Portion of Government (Crown) land of Wailua, situated at Wailua, Lihue (Puna), Kauai,
identified by Tax Map Keys: (4) 3-9-5:19 and 20 as shown on the attached maps labeled
Exhibits A & B.

AREA:

21.33 acres, more or less

ZONING:

State Land Use District:	Agriculture
County of Kauai CZO:	Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-5346, William J. Sanchez, Sr., Lessee, for pasture purposes. Expired on December 14, 2008.

LEASE TERMS AND CONDITIONS:

CHARACTER OF USE:

Pasture purposes

LEASE TERM:

Thirty (30) years

COMMENCEMENT DATE:

The date of sale if the current occupant is the successful bidder, otherwise, sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance

RENTAL REOPENINGS:

At the 10th and 20th year of the lease term, by staff or independent appraisal

PERFORMANCE BOND:

Twice the annual rental amount

REVOCABLE PERMIT TERMS AND CONDITIONS:

CHARACTER OF USE:

Pasture purposes

COMMENCEMENT DATE:

Effective December 15, 2008

MONTHLY RENTAL:

\$83.00 per month

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental

PROPERTY CHARACTERISTICS:

Utilities: Available to lot line
Slope: 0-10%
Elevation: 0 - 50 feet
Rainfall: 50 - 75 inches median annual rainfall
SCS Soil Series: Mokuleia clay loam and Kaena clay (MtA & KavC)

Legal access to property: Staff has verified that Parcel 20 has legal access across a one-lane bridge over a drainage ditch fronting Kuhio Highway. Parcel 19 has no legal access.

Subdivision: Staff has verified that the subject property to be auctioned is a legally subdivided lot.

Encumbrances: Staff has verified that the following encumbrances exist on the property as follows:

- a) Irrigation pipeline right-of-way (10.00 feet wide) in favor of the County of Kauai.
- b) Pipeline right-of-way (10.00 feet wide) in favor of the County of Kauai.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states " Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features involving negligible or no

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expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Applicant is sole proprietorship and, as such, is not required to register with DCCA.

REMARKS:

The Board of Land and Natural Resources at its meeting held on August 23, 1991, agenda item F-8, approved the public auction sale of a 15 year pasture lease.

General Lease No. S-5346 was awarded to Louis K. Rego by public auction held on December 15, 1993. The term was for fifteen (15) years; commencing on December 15, 1993 and expiring on December 14, 2008, to be used solely for pasture purposes. "Pasture" means the conduct of livestock operation consisting of keeping cattle, primarily, and others, in a minor role such as horses and sheep where animals graze the land for feed produced thereon.

The Board at its meeting held on March 22, 1996 under agenda item D-15, consented to the assignment of General Lease No. S-5346 from Louis K. Rego to William J. Sanchez, Sr.

Mr. Sanchez on November 13, 2008, requested a month-to-month revocable permit once the lease expires. The delay is due to staff not processing this lease in accordance with Section 171-33(9), HRS.

The County of Kauai has zoned the parcel as "Agriculture" which allows livestock operations as a permitted use.

Staff feels that parcel can be successfully sold at a future public auction.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Applicant is a lessee on General Lease Nos. S-5346, 5349, 5519, 5583, 5659 and Revocable Permit Nos. S-7199 and 7278 and as such qualifies as a bona fide rancher pursuant to §171-14.5, HRS. As this is a continuation of an existing use of the property, staff is recommending the Board approve the request.

There has been no other applicants requesting use of these parcels.

At this time, this subject property is not being considered by the Department of Agriculture for transferring pursuant to Act 90, Session Laws of Hawaii 2003.

Comments were solicited from:

State Agencies:

Dept. of Agriculture	No objections
OHA	No comments
NRCS	No response by suspense date
Public Safety-Corrections	No response by suspense date

County Agencies:

County Planning Department	No objections
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RECOMMENDATION: That the Board:

1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the permit or lease.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the sale of a lease at public auction covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current pasture general lease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Authorize the issuance of a revocable permit to William J. Sanchez, Sr. covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and

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- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



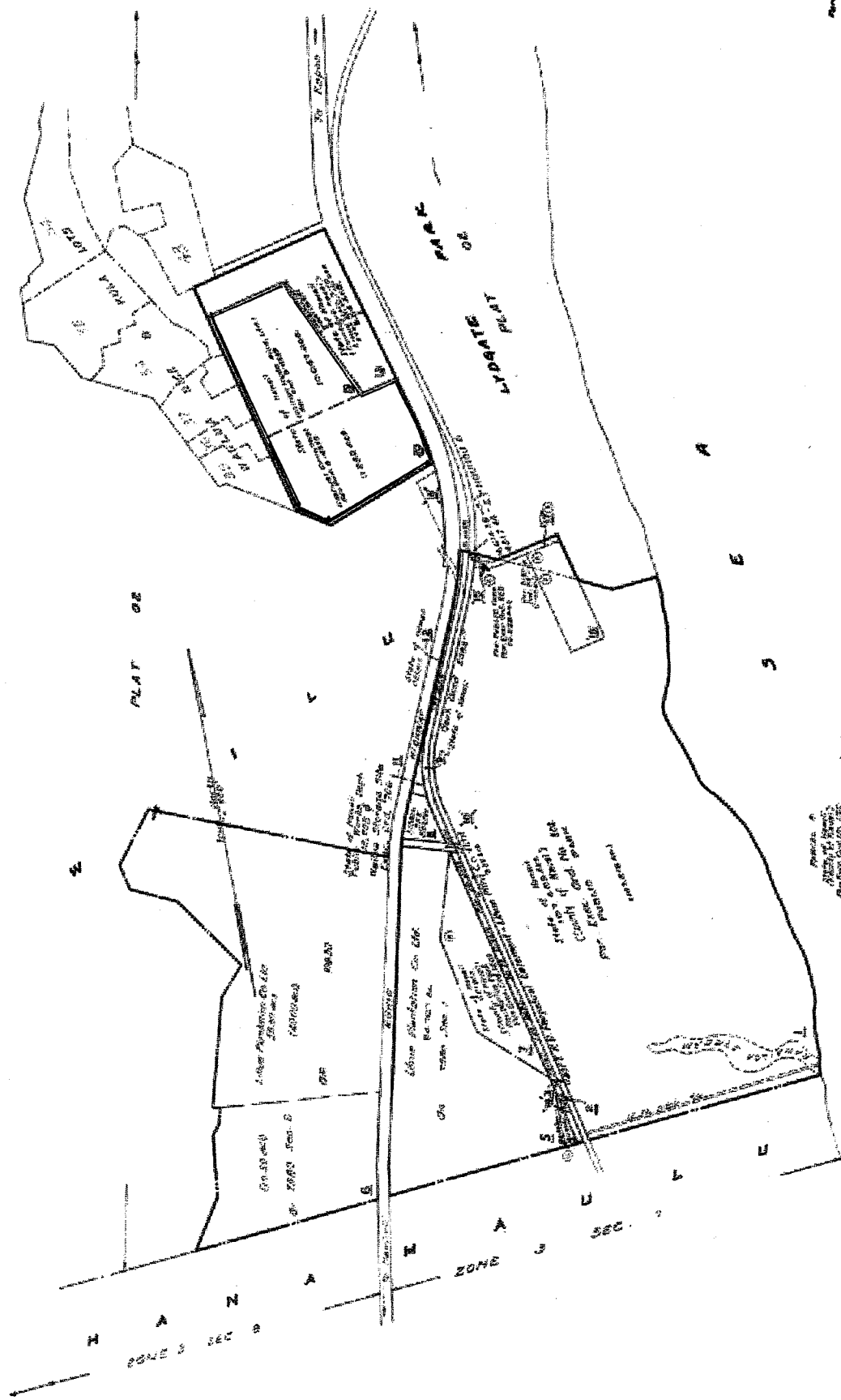


Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



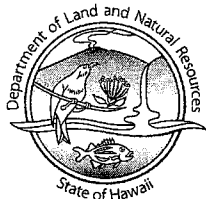
Revised Chapter 18.12.14

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
SECTION	ZONE	SEC.	PLAT
3	9	05	
CONTINUING PARCELS			SCALE 1" = 200 F.

SUBJECT TO CHANGE

PORTION OF WAIALUA, LIHUE, MAUI

EXHIBIT "A"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 20, 2009

PM3:07:20

JAN 29 '09

DLNR KDLO RCVD

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: Morris M. Atta, Administrator *Morris M. Atta*

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus C. Chen*

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Pasture Purposes

Doc No.: 08KD-195
Applicant: William J. Sanchez, Sr.
Location: Wailua, Lihue (Puna), Kauai, Hawaii
Land Area: 21.33 acres
Tax Map Key: (4) 3-9-5: 19 & 20
Char. of Use: Pasture

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for pasture purposes on the above-referenced property effective December 15, 2008. This rent amount will be included in staff's submittal to the Board for approval of this permit and will not be effective unless such approval is received. The subject was encumbered by the applicant under General Lease S-5346 which expired December 14, 2008. The rent was \$870 per annum and last reopened in 2003. The last two reopening appraisals, both of which were approved by the DLNR, had used the State pasture production formula as part of the rent determination methodology.

The subject consists of approximately 21.33 acres in Wailua, Lihue, Kauai. Based on the prior 2003 appraisal, the site contains 21.33 usable acres for pasture use and can support one animal unit for each usable acre of pasture use. Therefore, the carrying capacity is approximately 21.33 AUY.

Based on an animal production formula for the subject acreage, we calculated the annual rent using a 21.33 AUY capacity:

	Usable Acreage	Capacity ¹	AUY
Pasture Details	21.33 ac. divided by 1 ac./cow	=	21.33
Average weight gain per animal per year in lbs.		x	300
Annual weight gain in lbs.			6,399
Average live weight price (3-yr. average) ²		x	\$0.62
Gross value of beef			\$3,967
Portion of gross profit to Lessor		x	25%
Gross annual rent			\$991.85
Monthly rent			\$82.65
Monthly rent (rounded)			\$83

¹Carrying capacity referenced in prior appraisal.

²Average live weight price (cents per pound) for Kauai derived from the *Statistics of Hawaiian Agriculture* average for the period 2004 to 2006, the most recent data available.


Year	Statewide	Kauai
2004	\$0.648	\$0.603
2005	\$0.753	\$0.606
2006	\$0.767	\$0.643
Average (rounded)	\$0.723	\$0.617

Therefore, as of December 15, 2008, the monthly market rent for the revocable permit to the applicant is recommended to be \$83 per month.

Special Assumptions and Limiting Conditions

- 1) This rental valuation estimate is for internal purposes only. This document does not take the place of an appraisal and does not constitute an appraisal that adheres to the Uniform Standards of Professional Appraisal Practice.
- 2) The subject property was not inspected by the staff appraiser.

Approved/Disapproved:



 Laura H. Thielen, Chairperson

1/27/09

 Date

cc: District Branch Files
 Central Files